

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

A.N., a minor, by and through Carissa	:	CIVIL DIVISION
Matty, a parent and natural guardian,	:	
	:	
Plaintiff,	:	Civil Action No.: 2:21-cv-10
	:	
v.	:	
	:	<i>Electronically Filed</i>
WAL-MART STORES, INC., and WAL-	:	
MART REAL ESTATE BUSINESS	:	
TRUST,	:	
	:	
Defendants.	:	

**NOTICE OF REMOVAL**

TO: The Honorable Judges of the United States District Court for the Western District of Pennsylvania

This Notice of Removal is filed by Defendants Wal-Mart Stores, Inc. and Wal-Mart Real Estate Business Trust asserting as follows:

1. The above-described action was commenced by the filing of Writs of Summons on October 8, 2020 in the Court of Common Pleas of Fayette County, Pennsylvania, against Defendants, Wal-Mart Stores, Inc., and Wal-Mart Real Estate Business Trust. (See copy of docket entries attached hereto as Exhibit "A")

2. The Writs was purportedly served on Wal-Mart Real Estate Business Trust and Wal-Mart Stores, Inc., respectively, by the Sherriff on October 13, 2020. (See Sherriff's return attached hereto as Exhibit "B").

3. Counsel entered an appearance on behalf of both defendants and filed a Praecipe for Rule to file a Complaint. (See Entry of Appearance and Rule to file Complaint collectively as Exhibit "C").

4. The Rule to File the Complaint was served on Plaintiff's Counsel on October 26, 2020 and an Affidavit of Service of the Rule was filed on the docket on November 2, 2020. (See true and correct copy of the Affidavit of Service attached hereto as Exhibit "D").

5. Plaintiff's Counsel served the Complaint on defense counsel via e-mail on December 3, 2020 and the Complaint was subsequently filed with the Fayette County Prothonotary on December 7, 2020. (A true and correct copy of the e-mail accompanying service of the Complaint and the Complaint are collectively attached hereto as Exhibit "E".)

6. Defendant Wal-Mart Stores, Inc. is the former name of the corporate entity now known as Walmart Inc. Walmart Inc. is a Delaware corporation with a principal place of business in Bentonville, Arkansas.

7. Defendant Wal-Mart Real Estate Business Trust is a Delaware business trust with a principal place of business in Bentonville, Arkansas. Wal-Mart Property Co. is the sole owner of Wal-Mart Real Estate Business Trust. Wal-Mart Property Co. is a Delaware corporation with its principal place of business in Arkansas. Wal-Mart Stores East, LP is the sole owner of Wal-Mart Property Co. Wal-Mart Stores East, L.P. is a foreign limited partnership formed in the State of Delaware with a principle place of business in Bentonville, Arkansas. The Partners of Wal-Mart Stores East, L.P. are WSE Management, LLC (general partner) and WSE Investment, LLC (limited partner). Both are Delaware limited liability companies with principal places of business in Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, an Arkansas limited liability company with a principal place of business in Bentonville, Arkansas. Finally, the sole shareholder of Wal-Mart Stores East, LLC is Wal-Mart Stores, Inc. (now known as Walmart Inc.), a Delaware corporation with a principal place of business in Bentonville, Arkansas. Accordingly, no partner or controlling entity of

Wal-Mart Real Estate Business Trust is a citizen of or has a principal place of business in the Commonwealth of Pennsylvania.

8. Defendants believe that at the time this action was initially commenced, and at the current time, Plaintiff was a resident of the Commonwealth of Pennsylvania. (Ex. E, ¶6).

9. The Complaint seeks an award in excess of the arbitration limits of Fayette County (\$50,000.00), but no specific sum is demanded in the Complaint. (Ex. E).

10. Among other injuries, it is understood that Plaintiff claims damages for a forefoot supinatus of the right lower extremity, pes planus of the right lower extremity, hallux abductovalgus of the right lower extremity, Salter-Harris fracture of the right distal tibia, scarring and permanent disfigurement, including a limp which may be permanent in nature.

11. Based on these alleged injuries and damages, Plaintiff's counsel has advised the undersigned counsel that this case is valued in excess of \$75,000.00.

12. This Notice of Removal is filed within thirty (30) days after Defendants were served with a copy of Plaintiff's Complaint on December 3, 2020, which apprised these Defendants of the amount in controversy, and within one (1) year of the commencement of this matter by Plaintiff on October 8, 2020 by the filing of the Writs of Summon; thus, it is timely filed pursuant to 28 U.S.C. §1446(b) (3) and (c).

13. As all of the parties to this action are diverse and the amount in controversy exceeds \$75,000, this Court has original jurisdiction under the provisions of 28 U.S.C. §1332 and this case may be removed to this Court by these Defendants pursuant to the provisions of 28 U.S.C. §§1441 and 1446.

WHEREFORE, Defendants, Wal-Mart Stores, Inc. and Wal-Mart Real Estate Business Trust, request that this action now pending in the Court of Common Pleas of Fayette County at No. 1777 of 2020 GD be removed to this Honorable Court.

**JURY TRIAL IS DEMANDED.**

Respectfully submitted,

THOMAS, THOMAS & HAFFER LLP

Date: 1/4/2021 BY: /s/ Rebecca Sember Izsak  
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***Counsel for the Defendants***